

APPEAL NO. 021840
FILED SEPTEMBER 3, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 17, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. The claimant appealed, essentially arguing that the hearing officer's injury and disability determinations are against the great weight and preponderance of the evidence. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he sustained a compensable injury. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer simply was not persuaded by the claimant's testimony that he sustained a compensable injury to his back while pushing a large passenger in a wheelchair, as he claimed. The hearing officer was acting within her discretion as the fact finder in rejecting the claimant's testimony. Nothing in our review of the record reveals that the hearing officer's injury determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to disturb the determination that the claimant did not sustain a compensable injury on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**WILLIAM PARNELL
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Philip F. O'Neill
Appeals Judge